

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| National Exchange Carrier Association |) | WC Docket No. 04-259 |
| Petition to Amend Section 69.104 of the |) | RM-10603 |
| Commission's Rules |) | |
| _____ |) | |

REPLY COMMENTS OF THE UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association (USTA)¹ submits its reply comments through the undersigned to the Federal Communications Commission (FCC or Commission) in response to the Commission's Notice of Proposed Rulemaking (NPRM) in the above-referenced proceeding.²

In 2002, USTA filed comments and reply comments in support of the Petition to Amend Section 69.1044 of the Commission's Rules (Petition) filed by the National Exchange Carrier Association (NECA),³ which requested that the Commission amend its rules applicable to non-price cap carriers regarding the number of subscriber line charges (SLCs) (or End User Common Line (EUCL) charges) that must be assessed on customer-ordered exchange access service that is provisioned using digital, high capacity T-1 interfaces for which the customer

¹ USTA is the nation's oldest trade organization for the local exchange carrier industry. USTA's carrier members provide a full array of voice, data, and video services over wireline and wireless networks.

² *National Exchange Carrier Association Petition to Amend Section 69.104 of the Commission's Rules*, Order Granting Petition for Rulemaking, Notice of Proposed Rulemaking, and Order Granting Interim Partial Waiver, WC Docket No. 04-259, RM-10603, FCC 04-174 (rel. July 19, 2004) (NPRM).

³ See *National Exchange Carrier Association, Inc. Petition to Amend Section 69.104 of the Commission's Rules*, Comments of the United States Telecom Association, RM-10603 (filed Dec. 2, 2002) and *National Exchange Carrier Association, Inc. Petition to Amend Section 69.104*

supplies the terminating channelization equipment. Specifically, USTA agreed with NECA that the Commission should limit the number of SLCs assessed on such T-1 interfaces to five and also permit carriers to assess a port charge on such T-1 facilities, noting that such a limitation on SLCs and a related port charge assessment would be consistent with the Commission's previous modification of its rules regarding the number of SLCs and port charges assessed on PRI ISDN services.

In 2003, USTA joined with NECA and other industry associations, consultants, and telephone companies in a Joint Petition for Expedited Waiver of the Commission's rule section 69.104, again regarding the number of SLCs assessed by non-price cap carriers on digital, high capacity T-1 interfaces for which the customer supplies the terminating channelization equipment, pending resolution of these issues to be considered more fully in a rulemaking proceeding. The Commission's grant of an interim partial waiver of rule section 69.104 has provided temporary parity with PRI ISDN services, but a permanent rule change is still necessary.

Now that the Commission has initiated a rulemaking on this matter, USTA reiterates its support of NECA's request that the Commission amend its non-price cap rules so as to limit to five the number of SLCs assessed on these T-1 interfaces as well as to permit carriers to assess a related port charge. USTA notes that NECA has provided additional data in its comments filed in response to the Commission's NPRM, which further justifies the requested change of rule section 69.104, and accordingly, USTA urges the Commission to make the requested change.

Although the NECA Petition solely addressed amendment of the non-price cap rule section 69.104, the Commission's NPRM has requested comment on the proper number of EUCL charges or SLCs that both rate-of-return and price cap carriers may assess upon customers that obtain derived channel T-1 service where the customer provides the terminating channelization equipment.⁴ If the Commission modifies the price cap rule section 69.152 such that the number of SLCs that can be assessed by price cap carriers on derived channel T-1 services is similarly reduced from 24 to five SLCs, as has been requested for non-price cap carriers in rule section 69.104, USTA urges the Commission to provide price cap carriers with the means to recover any shortfall in the recovery of their common line costs, which is caused by such a change in rule section 69.152, namely the reduction in SLCs, as requested by Verizon and SBC in their comments.⁵

Finally, it is incredible that AT&T would submit comments in this proceeding, arguing that the NECA proposal to amend rule section 69.104 "would increase the current USF – which is already over-burdened, with the surcharge hovering near nine percent (and possibly going even higher),"⁶ when AT&T has withheld over \$160 million in universal service contributions for calls made by customers using its prepaid calling card services, as admitted by AT&T in its most recent SEC Form 10-Q filing.⁷ If AT&T were to remit this \$160 million to the Universal Service Administrative Company, such payment would undoubtedly reduce the Universal

⁴ See NPRM, ¶1.

⁵ See generally Verizon Comments and SBC Comments.

⁶ AT&T Comments at 5.

⁷ See AT&T Corporation, SEC Form 10-Q, *Quarterly Report Pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934, for the Quarterly Period Ended Sept. 30, 2004*, at 16 (dated Nov. 4, 2004).

Service Fund contribution factor, perhaps by more than one percent for one quarter of contributions.⁸ Unlike the self-help actions taken by AT&T with regard to its prepaid calling card services, USTA notes that by NECA's calculations, the proposed revision to the Commission's rule section 69.104 "will not unduly burden the high cost universal service fund."⁹

For the reasons stated herein, USTA urges the Commission to amend its rule section 69.104 so that the number of SLCs that rate-of-return carriers may assess on customers of

⁸ WilTel Communications states in its Expedited Petition to Reduce or Adjust the Proposed Fourth Quarter Contribution Factor that the "single 'true-up' payment [of \$150 million, the amount withheld at the time of the WilTel filing,] would reduce the USF contribution factor by over 11%, from 8.9% to 7.9%." *Federal-State Joint Board on Universal Service Proposed Fourth Quarter 2004 Universal Service Contribution Factor; AT&T Petition for Declaratory Ruling Regarding Enhanced Prepaid Card Services*, Expedited Petition to Reduce or Adjust the Proposed Fourth Quarter Contribution Factor, CC Docket No. 96-45, WC Docket No. 03-133, at 5-6 (filed Sept. 22, 2004).

⁹ NECA Comments at i. By NECA's analysis, the amount that would be recovered through universal service support (*i.e.*, ICLS) as a result of the proposed reduction in SLCs "represents a fraction of a percent (0.46%) of the current \$3.91 billion USF High Cost funding requirement." *Id.* at 12.

derived channel T-1 service, where the customer provides the terminating channelization equipment, is reduced from 24 to five.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on December 13, 2004, the aforementioned Reply Comments of The United States Telecom Association were electronically filed with the Commission through its Electronic Comment Filing System and were electronically mailed to the following:

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